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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 99-2-2

SERVED FEB 5 1999

Issued by the Department of Transportation
on the 2nd day of February, 1999

Agreement Among Member Carriers of the
INTERNATIONAL AIR TRANSPORT ASSOCIATION
concerning passenger services matters:

Docket OST-98-4744-a
R-1 through R-9

Agreement Adopted by the Traffic
Conferences of the International Air
Transport Association

Docket OST-98-4338-s

ORDER

The International Air Transport Association (IATA) has filed an agreement with the Department for approval and exemption from the U.S. antitrust laws under sections 41309 and 41308 of Title 49 of the United States Code. The agreement was adopted at the Twentieth Passenger Services Conference held in Fort Lauderdale during October 13-15, 1998.^{1/}

The agreement consists of resolutions and recommended practices (R.P.'s) affecting passenger services.^{2/} Most of the changes further refine existing ticket formats and ticketing procedures to facilitate the introduction of the euro; align absorption of certain passenger expenses for travel wholly within Western Africa with actions already taken in Tariff Coordination Conference 2; and assign additional form codes for automated miscellaneous charges orders (MCO's). These proposals involve non-substantive changes, essentially of a technical, editorial or administrative nature, to existing approved resolutions and recommended practices, and appear to be in conformity with our substantive policies and concerns. As such, they raise no public interest issues, and will be approved.

Substantive Changes:

The agreement also: (1) amends a standard notice in Resolution

^{1/} IATA memorandum PSC/Reso/095, filed with the Department on November 11, 1998. IATA's Twentieth Passenger Services Conference was held in conjunction with the Nineteenth Joint ATA/IATA Passenger Services Conference.

^{2/} The individual resolutions and recommended practices, along with their subject matter, are listed in the attached appendix.

724a on denied boarding which members must include with tickets in countries where denied boarding compensation rules are in place, in order to meet the concerns expressed by the Department in Order 98-5-33 (May 28, 1998) which disapproved an earlier version of the notice; and (2) revalidates a ticket notice, applicable for EU countries only, which was originally adopted to meet the requirements of EU and UK legislation regarding changes in airline liability and corresponding notice requirements, and due to expire on January 31, 1999, for an additional period through March 31, 2000, so as to give governments and airlines sufficient time to develop language for a single, comprehensive liability notice that meets government requirements in all markets.

We will approve IATA's amended notice on denied boarding compensation as set forth in Resolution 724a. The revised notice clearly states that it does not apply in the U.S. and its territories. We interpret that to mean that the notice will not be included on or with any tickets sold in the U.S. for transportation originating in the U.S. Against that background, we conclude that IATA's notice revision adequately deals with the concern raised in Order 98-5-33 that its notice should not undermine the Department's own, more explicit notice pertaining to denied boarding compensation as set out in 14 CFR §250.11.

Last, we will approve the revalidation of the EU liability notice for a limited period to September 30, 1999. By Order 98-10-16 (October 16, 1998), we approved, as a stopgap measure and only to January 31, 1999, a notice of liability provisions for use on airline tickets issued in EU countries, including tickets for transportation to and from the United States. This EU notice would not affect the ticket notice mandated under 14 C.F.R. 121.175 of the Department's Regulations, which would still be required in addition to IATA's EU notice.^{3/} In that order, we noted that "we are not endorsing the language of the notice", and that we "anticipate that, before [January 31, 1999], affected carriers and governments will have agreed upon satisfactory language, which can be endorsed by the Department."

We are concerned that there have not been greater efforts by IATA to coordinate with ATA and other interested persons on the appropriate language for the EU notice. We do consider it necessary that U.S. carriers and other interested U.S. parties

^{3/} We noted in Order 98-10-16 that this EU notice would not affect the Department's ticket notice mandated under 14 C.F.R. 121.175 of the Department's Regulations, which would still be required in addition to the IATA's EU notice. We also took into account the fact that, under EU regulations, carriers who have not fully implemented the EU requirements must also include a ticket notice of their applicable liability conditions.

coordinate on language used for notices for transportation between EU countries and the U.S., including notices whose use is limited to tickets sold in EU countries. In this connection, we point out that, in Order 98-8-28, we have extended antitrust immunity to IATA, ATA and other interested persons "to consider, *inter alia*, a **common notice provision** (to replace other required notices) for those carriers that had implemented the IPA or MIA Agreements through tariffs filed with, and accepted by, the Department" (including EU carriers which had implemented the EU regulations and filed appropriate implementing **tariffs with the Department**).

Because of the exigencies set forth in Order 98-10-16, we will **extend our previous approval of the notice to allow additional time for IATA and its member airlines to work with the relevant authorities, carriers, and other interested persons to develop appropriate language for notices that provide fair and meaningful disclosure to consumers and meet the requirements of carriers who have implemented either the IATA or ATA Agreements, or EU Regulations, and filed implementing tariffs with the Department.**

We will not, however, extend our approval to March 31, 2000, as requested by IATA. Rather, we will extend it to be coextensive **with the antitrust immunity granted in Order 98-8-28, i.e., until September 30, 1999.** We believe an additional eight months should be ample for IATA to coordinate with appropriate authorities, ATA, and other interested U.S. persons as contemplated in Order 98-10-16, and in accordance with the discussion authority and antitrust **immunity granted in Order 98-8-28. Accordingly, our approval of the EU notice will terminate September 30, 1999.**

Section 41309 of the Code directs us to approve any agreement or modification of an agreement if we find that it will not **substantially lessen competition, and is not adverse to the public interest or in violation of the Code.** We find that the agreement in Docket OST-98-4744, as conditioned, is not adverse to the **public interest,** in violation of the Code, or likely to lessen competition substantially, and that it should be approved.

Furthermore, we conclude that the agreement should be granted immunity **from the operation of the antitrust laws to the extent necessary to permit its implementation.** It amends existing provisions already approved and immunized by the Department. As a **result, it does not raise any immunity issues not previously considered,** and the conferral of immunity upon it is consistent **with our policy of conferring immunity on amendments coextensively with the underlying agreements.**

Acting under Title 49 of the United States Code, and particularly sections 40101, 41300 and 41309:

We do not find that Resolutions R-1 through R-Y of the agreement in Docket OST-98-4744, **as set forth in the attached Appendix,** to be adverse to the public interest, in violation of the Code, or

likely to lessen competition substantially, provided that approval is subject, where applicable, to conditions previously imposed or imposed therein.

ACCORDINGLY,

1. We approve R-1 through R-Y of the agreement in Docket OST-98-4744 as listed in the attached Appendix, under 49 U.S.C. 41309, **subject, where applicable, to conditions previously imposed or imposed therein;**

2. **To the extent that R-1 through R-Y of the agreement in Docket OST-98-4744 are approved, we exempt any person affected by this order from the operation of the antitrust laws as provided in 49 U.S.C. 41308; and**

3 Order 98-10-X is amended by deleting the date January 31, 1999, from the ordering paragraph of that order, and substituting **the date "September 30, 1999", so that the ordering paragraph will read: "We approve and grant antitrust immunity to the agreement contained in Docket OST-98-4338 until September 30, 1999."**

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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Docket	IATA	IATA Resolution Title	Expiry Date
OST-98-4744	Designation		
R-1	PSC(20)720a	Passenger Ticket and Baggage Check-Issuance and Honoring Procedures (Amending)	Indefinite
R-2	PSC(20)722	Transitional Automated Ticket (TAT) (Amending)	Indefinite
R-3	PSC(20)722a	Off Premise Transitional Automated Ticket (OPTAT) (Amending)	Indefinite
R-4	PSC(20)724	Passenger Ticket-Notices and Conditions of Contract (Amending) (Provided that approval and immunization of the EU Notice Requirement in Attachment "D" terminates on September 30, 1999)	Indefinite
R-5	PSC(20)724a	Passenger Ticket-Notice of Overbooking of Flights (Except USA/US Territories) (Amending)	Indefinite
R-6	PSC(20)725a	Miscellaneous Charges Order (MCO)-Issuance and Honoring Procedures by Members) (Amending)	Indefinite
R-7	PSC(19)726a	Multiple Purpose Document-(MPD) Carrier, Carbonized, Automated (Amending)	Indefinite
R-8	PSC(20)1720a	Standard Thirteen-Digit Numbering System for Traffic Documents (Amending)	
R-9	PSC(20)1775	Hotel Accommodation, Meals and Surface Transport Multilateral Agreement (Amending)	